

INSPECTOR'S STATEMENT- Event Violation
Minerals Regulatory Program

Company/Mine: TM Crushing
Permit #: S/040/0081

Violation # MC-2010-17-09

A. SERIOUSNESS

1. What type of event is applicable to the regulation cited? Refer to the DOGM reference list of event below and remember that **the event is NOT the same as the violation.** Mark and explain each event.

- ☐ a. Activity outside the approved permit area.
- ☐ b. Injury to the public (public safety).
- ☐ c. Damage to property.
- ☒ d. Conducting activities without appropriate approvals.
- ☐ e. Environmental harm.
- ☐ f. Water pollution.
- ☐ g. Loss of reclamation/revegetation potential.
- ☐ h. Reduced establishment, diverse and effective vegetative cover.
- ☐ i. Other.

Explanation: During an inspection on October 20, 2010, it was observed that mining activity was being conducted. Operator had not filed a NOI for this operation with the Division

2. Has the event or damage occurred? yes
If yes, describe it. If no, what would cause it to occur and what is the probability of the event(s) occurring? (None, Unlikely, Likely).

Explanation: Active mining operations were observed at the Talon's Cove Quarry on October 20, 2010.

3. Did any damage occur as a result of the violation? NO
If yes, describe the duration and extent of the damage or impact. How much damage may have occurred if the violation had not been discovered by a DOGM inspector? Describe this potential damage and whether or not it would extend off the disturbed and/or permit area.

Explanation: While normally the answer to this would be yes, disturbances at this operation began as a sand/gravel operation (which would be exempt from DOGM requirements. No new damage resulted as the operation began to remove bedded hard rock materials. (which requires DOGM permitting). The operation had been permitted by Eagle Mountain City (local govt. authority).

B. DEGREE OF FAULT (Check the statements which apply to the violation and discuss).

- ☐ Was the violation not the fault of the operator (due to vandalism or an act of God), explain. Remember that the permittee is considered responsible for the actions of all persons working on the mine site.

Explanation: _____

- ☒ Was the violation the result of not knowing about DOGM regulations, indifference to DOGM regulations or the result of lack of reasonable care.

Explanation: Operator had permitted this operation with Eagle Mountain City and had been told by Eagle Mountain that they did not need to permit with the State. While the operator was aware of DOGM (has a

permit in Salt Lake County), which would show some neglect in not contacting the Division, it is also understood why they may not have done so.

- ___ If the actual or potential environmental harm or harm to the public should have been evident to a careful operator, describe the situation and what, if anything, the operator did to correct it prior to being cited.

Explanation: _____

- ___ Was the operator in violation of a specific permit condition?

Explanation: _____

- ___ Has DOGM cited the violation in the past? If so, give the dates and the type of warning or enforcement action taken.

Explanation: _____

- ___ Was any economic benefit gained by the operator for failure to comply? Unlikely. If yes explain.

Explanation: This operation was permitted and bonded by Eagle Mountain. The only potential gain would be the annual permit fee of \$150.

GOOD FAITH

1. In order to receive good faith for compliance with an NOV or CO, the violation must have been abated before the abatement deadline. If you think this applies, describe how rapid compliance was achieved (give date) and describe the measures the operator took to comply as rapidly as possible.

Explanation: Operator immediately requested a 'stop work' conference scheduled for the next day (Thursday), which upheld the fact of the violation. On Monday, Oct. 25, 2010, the operator provided the Division with a Notice and an acceptable reclamation surety. The Cessation Order was terminated effective October 25, 2010 (note, this is the very next working day from when the stop work conference upheld the violation).

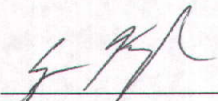
2. Explain whether or not the operator had the necessary resources on site to achieve compliance.

Explanation: _____

3. Was the submission of plans prior to physical activity required by this NOV/CO? Yes If yes, explain.

Explanation: Operator needed to prepare and submit a Notice of Intention to Commence Mining Operations.

Lynn Kunzler
DOGM Inspector



Signature

January 25, 2011
Date

WORKSHEET FOR ASSESSMENT OF PENALTIES
DIVISION OF OIL, GAS & MINING
Minerals Regulatory Program

COMPANY / MINE TM Crushing PERMIT S/049/081
CO # MC-2010-17-09 VIOLATION 1 of 1

ASSESSMENT DATE January 26, 2010

ASSESSMENT OFFICER Thomas Munson

I. HISTORY (Max. 25 pts.) (R647-7-103.2.11)

No previous violations.

TOTAL HISTORY POINTS 0

II. SERIOUSNESS (Max 45pts) (R647-7-103.2.12)

NOTE: For assignment of points in Parts II and III, the following apply:

1. Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.
2. Beginning at the mid-point of the category, the Assessment Officer will adjust the points up or down, utilizing the inspector=s and operator=s statements as guiding documents.

Is this an EVENT (A) or Administrative (B) violation? A
(assign points according to A or B)

A. EVENT VIOLATION (Max 45 pts.)

1. What is the event which the violated standard was designed to prevent?
The site was operating without a permit.
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

PROBABILITY

RANGE

None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS _____

PROVIDE AN EXPLANATION OF POINTS:

3. What is the extent of actual or potential damage? RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS _____

PROVIDE AN EXPLANATION OF POINTS:

B. ADMINISTRATIVE VIOLATIONS (Max 25pts)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? _____
RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS _____

PROVIDE AN EXPLANATION OF POINTS:

TOTAL SERIOUSNESS POINTS (A or B) _____

III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, the failure to abate any violation due to the same or was economic gain realized by the permittee? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE_____

ASSIGN NEGLIGENCE POINTS _____

PROVIDE AN EXPLANATION OF POINTS:

IV. GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)

(Either A or B) (Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area?

IF SO--EASY ABATEMENT

Easy Abatement Situation

X	Immediate Compliance	-11 to -20*
	(Immediately following the issuance of the NOV)	
X	Rapid Compliance	-1 to -10
	(Permittee used diligence to abate the violation)	
X	Normal Compliance	0
	(Operator complied within the abatement period required)	
	(Operator complied with condition and/or terms of approved Mining and Reclamation Plan)	

*Assign in upper of lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance, or does the situation require the submission of plans prior to physical activity to achieve compliance?

IF SO--DIFFICULT ABATEMENT

Difficult Abatement Situation

X	Rapid Compliance	-11 to -20*
	(Permittee used diligence to abate the violation)	
X	Normal Compliance	-1 to -10*
	(Operator complied within the abatement period required)	
X	Extended Compliance	0
	(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete)	

(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? _____

ASSIGN GOOD FAITH POINTS _____

PROVIDE AN EXPLANATION OF POINTS:

V. ASSESSMENT SUMMARY (R647-7-103.3)

NOTICE OF VIOLATION # _____

I.	TOTAL HISTORY POINTS	_____
II.	TOTAL SERIOUSNESS POINTS	_____
III.	TOTAL NEGLIGENCE POINTS	_____
IV.	TOTAL GOOD FAITH POINTS	_____
	TOTAL ASSESSED POINTS	_____

TOTAL ASSESSED FINE \$ _____